MONTANA LEGISLATIVE BRANCH

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Legislative Fiscal Analyst
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DATE: September 23, 2005

TO: Legislative Finance Committee

FROM: Pat Gervais, Senior Fiscal Analyst

RE: DPHHS Foster Care and Developmental Disabilities Provider Rate Increases

The purpose of this memo is to update the Legislative Finance Committee regarding actions taken by the Department of Public Health and Human Services (DPHHS) in implementing provider rate increases for family foster care and developmental disabilities services.

Family Foster Care

The legislature provided $548,572 total funds for the biennium ($384,000 general fund) to support a 4 percent provider rate increase effective July 1, 2005 for family foster care providers. Subsequent to the legislative session, as the department proceeded with implementation of this provider rate increase, legislative staff became aware that the estimated costs of an increase in family foster care rates provided by the department and utilized by the legislature did not include two groups of family foster care providers: 1) those providing specialized care and 2) those providing therapeutic care. Because the estimate used to develop the appropriation did not include specialized or therapeutic family foster care providers, the department has not implemented a provider rate increase for these groups of providers. Per the department it would cost approximately $100,000 per year ($50-60,000 general fund) to implement a provider rate increase for these two groups of providers. [1]

Providers of regular and kinship family foster care have received the 4 percent provider rate increase.

Developmental Disabilities

The legislature provided $4.3 million total funds for the biennium[2] to support an increase in the direct care worker wage benchmark used in the calculation of new developmental disability reimbursement rates from the 25th to the 35th percentile of comparable positions[3]. Because the new rate structure is being implemented only in a "pilot" area and a portion of the funding supporting this rate increase is from tobacco tax revenues which may only be used to support Medicaid services (and not services historically funded from the general fund), the department faced some challenges in implementing this provider rate increase. After consideration of

[1] Email dated June 20, 2005 from Dave Thorsen, CFSD to Pat Gervais, LFD.

[2] $475,000 general fund, $1.4 million state special revenue from tobacco taxes, and $2.4 million in federal funds or about $2.1 million per year.

[3] Based upon wage and salary survey data from several sources and utilized by the department's contractor in developing the provider rate structure.

several issues and consultation with the provider rate reimbursement project advisory group the department arrived at a plan for implementation of provider rate increases which is outlined in the following paragraphs.

Allocation of Rate Increase Among Providers

Providers in the Region II, including Great Falls, Havre, Choteau and surrounding areas, are in "pilot" implementation of the new rate reimbursement system and are being reimbursed according to a rate structure that incorporated the change in direct care worker wage benchmarks from the 25th to the 35th percentile. Providers in other regions of the state received rate increases varying from 1.5 to 7 percent depending upon the variance in estimated revenues under the new rate reimbursement system verses current revenues under the contract reimbursement system. This decision was reached after much discussion of the issue that some providers are currently receiving more revenue under the contract reimbursement system than they are projected to receive under the new rate reimbursement system. The provision of a provider rate increase to providers currently receiving reimbursements greater than those they are estimated to receive under the new reimbursement system widens the gap for these providers and increases the amount of revenue loss the provider is likely to experience when the new reimbursement rates become effective for them. The department could have chosen not to increase provider rates for this group of providers and instead utilized more of the funding to increase rates for those providers currently receiving the lowest reimbursements.

Use of Increase to Support Mandatory and Non-mandatory Employee Benefits

The department has included language in the provider contract requiring that:

> "The Contractor must apply at least seventy-two percent of this funding to increase wages and benefits of direct care workers until the point at which the average of the Contractor's direct care wages and benefits are at the 35th percentile. The 35th percentile rate for wages and benefits is $11.17 per hour. Wages do not include overtime compensation or annual bonuses. Benefits include both mandated (social security, Medicare tax, workers compensation, and unemployment) and non-mandated (health insurance, retirement, paid time off, etc) employee related expenditures. "

It is unclear whether or not the legislature intended this direct care worker wage increase to support only a wage increase or a wage increase plus employee benefits. Given the language included in the department contracts a provider could utilize the entire amount of the direct care worker salary increase to cover cost increases in mandatory employee benefits such was worker compensation costs and provide no wage increase to workers. In fact, legislative staff received a public inquiry regarding this issue that indicated that this situation had occurred.

Legislative Appropriation Supplemented

The legislature provided an appropriation of $4.3 million to support this provider rate increase. It is legislative staff understanding that the department supplemented the funding provided by the legislature for provider rates with funds available within the division's budget. Information regarding actions taken by the division to make funds available to supplement the funding for provider rate increases and the total allocated to provider rate increases was not available at the time of this writing.